

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LESLIE PURNELL,

Plaintiff,

v.

Case No. 05-CV-73384-DT

ARROW FINANCIAL SERVICES, LLC,

Defendant.

OPINION AND ORDER DENYING AS UNTIMELY DEFENDANT'S "MOTION TO COMPEL" AND DENYING AS MOOT DEFENDANT'S "MOTION TO AMEND SCHEDULING ORDER AND CONTINUE PRETRIAL AND TRIAL DATES"

Pending before the court is Defendant Arrow Financial Services, LLC's "Motion to Compel," which was filed on January 19, 2007. The motion seeks to compel Plaintiff to respond to Defendant's August 17, 2006 interrogatories. The motion will be denied as untimely, as it was filed well after Defendant was aware that the interrogatories went unanswered. The court set a discovery deadline of September 1, 2006. (4/14/06 Scheduling Order at 2.) Plaintiff had twenty-eight days after service to respond to the interrogatories, (*id.*), which means that Defendant must have known of Plaintiff's unresponsiveness no later than the end of October. Defendant has not explained the more than two-month delay in filing its motion to compel. "Extensions of court-supervised discovery are not ordinarily granted in the absence of unusual circumstances." (*Id.*) Because Defendant has failed to present such circumstances, the court must deny Defendant's motion as untimely. See also *Audi AG v. D'Amato*, 469 F.3d 534, 541-541 (holding that the district court did not abuse its discretion in denying

a discovery request because, under the circumstances, “a delay of two-and-a-half months is dilatory”).

Also pending before the court is Defendant’s January 19, 2007 “Motion to Amend Scheduling Order and Continue Pretrial and Trial Dates.” The court, having already granted an extension by telephone for the filing of the joint pretrial statement, will deny Defendant’s motion as moot. Defendant’s remaining arguments for amending the scheduling order, which rely on its contemporaneously filed motions to compel and for summary judgment, are also moot, as the court has denied each of those motions. Accordingly,

IT IS ORDERED that Defendant’s “Motion to Compel” [Dkt. # 35] is DENIED. Pretrial proceedings will continue pursuant to the court’s previous scheduling orders.

IT IS FURTHER ORDERED that Defendant’s “Motion to Amend Scheduling Order and Continue Pretrial and Trial Dates” [Dkt # 34] is DENIED as moot.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 23, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 23, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522